

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

PHILIP BURRIS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-13-867-D
)	
STATE OF GEORGIA, and)	
WARDEN OF CENTRAL STATE PRISON,)	
)	
Defendants.)	

ORDER

Plaintiff is a state prisoner appearing *pro se* and brings this action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1)(B) and (C), the matter was referred to United States Magistrate Judge Suzanne Mitchell for initial proceedings. In a Report and Recommendation [Doc. No. 44] issued on April 1, 2015, the Magistrate Judge reviewed the motion to dismiss of Defendants Oklahoma Department of Corrections (ODOC), Jones and Addison, pursuant to which they sought dismissal of Plaintiff's complaint based on his alleged failure to cooperate in the discovery process. The Magistrate Judge recommended denying the motion to dismiss finding, *inter alia*, a lack of actual prejudice to a degree sufficient to warrant dismissal and that Plaintiff is not totally culpable for the discovery delay.

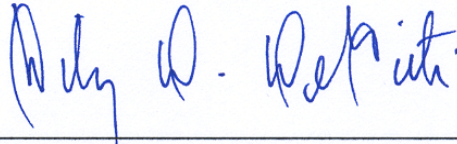
The Magistrate Judge specifically advised the parties of their right to object to the findings and recommendations set forth in the Report and Recommendation. She further advised the parties that failure to timely object would constitute a waiver of his right to appellate review of the factual and legal matters set forth therein. The parties' deadline for filing objections was April 21, 2015. To date, the parties have not filed an objection to the Report and Recommendation or sought an

extension of time in which to do so. Accordingly, the Court adopts the Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 44] is ADOPTED in its entirety and Defendants' Motion to Dismiss [Doc. No. 40] is DENIED.

This matter remains pending before the Magistrate Judge pursuant to the Court's prior order of referral.

IT IS SO ORDERED this 27th day of April, 2015.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE